

1 Elizabeth A. Leedom, WSBA #14335
2 Bennett Bigelow & Leedom, P.S.
3 1700 Seventh Avenue, Suite 1900
4 Seattle, WA 98101
5 206-622-5511

7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON

9 GREGORY MADDY,

10 Plaintiff,

11 vs.
12

13 CSL PLASMA, INC., f/k/a ZLB
14 PLASMA, an alien corporation,

15 Defendant.

NO. CV-11-076-EFS

**ANSWER AND
AFFIRMATIVE DEFENSES**

16 COMES NOW defendant CSL Plasma Inc., by and through its counsel, and
17 answers plaintiff's Complaint for Personal Injuries as follows:
18

19 I.

20 Defendant is without sufficient knowledge to either admit or deny the
21 allegations contained in the first sentence of Section I, and therefore denies the
22 same. With regard to the second sentence of Section I, defendant admits that
23 plaintiff was a frequent plasma donor of the Spokane facility of CSL Plasma Inc.
24
25 With regard to the remaining portions of Section I, defendant denies any
26

1 allegations that it did not properly maintain and disinfect its equipment in order to
2 minimize and/or eliminate the foreseeable risk of infection to donors like
3 plaintiff, and denies any allegations that it did not properly, consistent with
4 applicable state, county and industry standards, train its employees in proper
5 sanitation protocols and blood draw and plasma separation techniques.
6

7 II.

8
9 With regard to the first paragraph of Section II, defendant admits that CSL
10 Plasma Inc., was a foreign corporation, and licensed to do business in Spokane
11 County, Washington. Defendant admits that at all times material hereto, CSL
12 Plasma Inc., owned and operated a plasma donation facility in Spokane,
13 Washington, where it offered compensation to plasma donors, employed agents in
14 the operation of its plasma donor facility, and collected plasma from donors.
15 Except as specifically admitted herein, defendant denies each and every other
16 allegation contained in the first paragraph of Section II.
17
18

19
20 With regard to the second paragraph of Section II, defendant admits that it
21 was in exclusive control of its facility, its employees, its policies and procedures,
22 the training and competency of its employees, its employees' preparation and use
23 of its equipment, and to comply with national, state and local standards for the
24 operation of facilities that secure plasma for donors. Except as specifically
25
26

1 admitted herein, defendant denies each and every other allegation contained in the
2 second paragraph of Section II.

3
4 With regard to the third paragraph of Section II, defendant admits that it
5 would be vicariously liable for acts and omissions of defendant's employees at its
6 Spokane plasma donor center, so long as such acts or omissions were done within
7 the course of their employment and as agents of defendant; however, defendant
8 denies any such acts or omissions of its employees proximately caused injuries or
9 damages to plaintiff as alleged.
10

11
12 III.

13 Defendant admits that between January 6, 2009 and March 19, 2009,
14 plaintiff was a donor at defendant CSL Plasma Inc., in Spokane, Washington.
15 Defendant admits that its employees did on multiple occasions draw blood from
16 plaintiff for processing to separate plasma. Defendant admits that the
17 instrumentalities used for this process were under the exclusive control of
18 defendant and its employees, who were responsible for maintaining all equipment
19 and devices. Defendant admits that it had exclusive control as to training of its
20 employees. Except as specifically admitted herein, defendant denies each and
21 every other allegation contained in Section III.
22
23
24
25
26

IV.

Defendant denies each and every allegation contained in Section IV.

V.

Defendant denies each and every allegation contained in Section V.

VI.

Defendant denies each and every allegation contained in Section VI.

Defendant denies plaintiff's prayer for relief as plaintiff is not entitled to the relief sought herein.

AFFIRMATIVE DEFENSES

By way of further answer, defendant asserts the following affirmative defenses:

1. Any alleged injuries and damages were proximately caused by persons or entities other than defendant and/or by causes other than those for which defendant is accountable. Defendant hereby requests apportionment pursuant to RCW 4.22 *et seq.*

2. Plaintiff assumed the risk. (This affirmative defense is being investigated.)

3. Plaintiff failed to mitigate his damages. (This affirmative defense is being investigated.)

1 4. Any alleged injuries or damages were proximately caused by
2 plaintiff's own comparative negligence. (This affirmative defense is being
3 investigated.)
4

5 5. Defendant reserves the right to add defenses and claims that become
6 apparent through the course of investigation and litigation.
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, having fully answered plaintiff's Complaint, and having
10 asserted its presently known affirmative defenses, defendant prays for the
11 following relief:
12

- 13 1. That plaintiff's Complaint is dismissed with prejudice;
14 2. That defendant is awarded reasonable costs and attorneys' fees as
15 allowed by law;
16 3. For such other and further relief as this Court deems just and proper.
17

18 DATED this 1st day of March, 2011.
19

20
21 s/Elizabeth A. Leedom, WSBA #14335
22 BENNETT, BIGELOW & LEEDOM, P.S.
23 Attorneys for Defendant CSL Plasma Inc.
24 1700 Seventh Avenue, Suite 1900
25 Seattle, WA 98101
26 Phone: 206-622-5511
Fax: 206-622-8986
E-Mail: eleedom@bblaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that she is now, and at all times material hereto, a citizen of the United States, a resident of the State of Washington, over the age of 18 years, not a party to, nor interested in the above entitled action, and competent to be a witness herein.

I caused to be served this date the foregoing in the manner indicated to the parties listed below:

| | | |
|---|-------------------------------------|----------------------------|
| Law Offices of David A. Bufalini | <input type="checkbox"/> | Hand Delivered |
| 2915 N. McCarver | <input type="checkbox"/> | Facsimile |
| Suite 100 | <input checked="" type="checkbox"/> | Email |
| Tacoma, WA 98403-3336 | <input checked="" type="checkbox"/> | 1 st Class Mail |
| Email: dbufalini@bufalinilaw.com | <input type="checkbox"/> | Priority Mail |
| ltthurman@bufalinilaw.com | | |

Dated in Seattle, Washington this 1st day of March, 2011.

s/Patricia J. Andrews, Legal Assistant
BENNETT BIGELOW & LEEDOM, P.S.
1700 Seventh Avenue, Suite 1900
Seattle, WA 98101
Telephone: 206-622-5511
Facsimile: 206-622-8986
E-Mail: pandrews@bblaw.com

{2594.00001/M0300039.DOC; 1}